



DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DOI-2023-0009; 2341A2100DD/AAKC0010130/A0A501010.999900]

Privacy Act of 1974; System of Records

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, the Department of the Interior (DOI) is issuing a public notice of its intent to create the Bureau of Indian Affairs (BIA) Privacy Act system of records, INTERIOR/BIA-35, Behavioral Health and Wellness Program. This system helps the Behavioral Health and Wellness Program (BHWP) provide immediate behavioral health crisis support, clinical counseling services, crisis care coordination, and communication with the client and appropriate points of contact for referrals and continued service delivery or emergency care. This newly established system will be included in DOI's inventory of systems of records.

DATES: This new system will be effective upon publication on [INSERT DATE OF PUBLICATION IN *FEDERAL REGISTER*]. New routine uses will be effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. Submit comments on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may send comments identified by docket number [DOI-2023-0009] by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for sending comments.
- Email: DOI_Privacy@ios.doi.gov. Include docket number [DOI-2023-0009] in the subject line of the message.

- U.S. mail or hand-delivery: Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

Instructions: All submissions received must include the agency name and docket number [DOI-2023-0009]. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Richard Gibbs, Associate Privacy Officer, Assistant Secretary – Indian Affairs, 1011 Indian School Road NW, Room 164, Albuquerque, New Mexico 87104, Privacy_Officer@bia.gov or (505) 563-5023.

SUPPLEMENTARY INFORMATION:

I. Background

The DOI is establishing a new system of records for the INTERIOR/BIA-35, Behavioral Health and Wellness Program. The Assistant Secretary – Indian Affairs consists of two bureaus, which are the BIA and Bureau of Indian Education (BIE). The BIA supports the functions of the BIE and is publishing this notice to describe the purpose of the BHWP that provides immediate behavioral health crisis support, clinical counseling services, crisis care coordination, and facilitates communication between clients and appropriate points of contact for referrals and continued service delivery or emergency care.

The BIE is responsible for providing quality educational opportunities from early childhood through adulthood in accordance with Federal trust responsibilities for approximately 43,000 students. The BIE funds 183 elementary, secondary, and residential schools across 64 Indian reservations and 23 states. Of these, 53 are BIE-operated and 130 are tribally-controlled. Additionally, BIE directly operates two post-

secondary institutions and funds and/or operates off-reservation boarding schools and peripheral dormitories near reservations for students attending public schools. The BIE also serves many American Indian and Alaska Native post-secondary students through higher education scholarships and support funding for tribal colleges and universities.

The BIE identified the need for comprehensive behavioral health and wellness services at a multitude of Bureau-funded schools, dormitories, colleges, and universities. The BIE is committed to creating positive, safe, and culturally relevant learning environments where students can gain knowledge, skills, and behaviors necessary for physical, mental, and emotional wellbeing. The BIE established the BHWP to address the significant mental health needs of students and staff at all BIE-funded institutions including BIE-operated schools, tribally-controlled schools, post-secondary institutions, and tribal colleges and universities.

II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to records about individuals that are maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act regulations at 43 CFR part 2, subpart K, and following the procedures outlined in the Records Access, Contesting Record, and Notification Procedures sections of this notice.

The Privacy Act requires each agency to publish in the *Federal Register* a

description denoting the existence and character of each system of records that the agency maintains, and the routine uses of each system. The INTERIOR/BIA-35, Behavioral Health and Wellness Program, system of records notice is published in its entirety below. In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Participation

You should be aware your entire comment including your personally identifiable information, such as your address, phone number, email address, or any other personal information in your comment, may be made publicly available at any time. While you may request to withhold your personally identifiable information from public review, we cannot guarantee we will be able to do so.

SYSTEM NAME AND NUMBER:

INTERIOR/BIA-35, Behavioral Health and Wellness Program.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained by the Office of the Director, Bureau of Indian Education, 1849 C Street NW, MIB-3621, Washington, DC 20240, and at BIE contractor facilities.

A current listing of contractor facilities may be obtained by writing to the System Manager identified below.

SYSTEM MANAGER(S):

Student Health Program Specialist, Office of the Director, Bureau of Indian Education, 1849 C Street NW, MIB-3621, Washington, DC 20240.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Every Student Succeeds Act, Pub. L. 114-95; Indian Education Policies, 25 CFR

part 32; Expenditure of appropriations by Bureau, 25 U.S.C. 2006; Congressional statement of findings, 25 U.S.C. 5301; Indian Child Welfare Act of 1978, Pub. L. 95-608 25 U.S.C. 1901; Confidentiality of Substance Use Disorder Patient Records, 42 CFR part 2; Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of the Interior, 43 CFR Subpart E; Rehabilitation Act of 1973, as amended, Pub. L. 93-112, Section 504, 29 U.S.C. 794; Tribally Controlled Schools Act of 1988, 25 U.S.C. 2501 et seq.; Indian Self-Determination and Education Assistance Act, 25 U.S.C. 5301 et seq.; Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191; Individuals with Disabilities Act (IDEA), 20 U.S.C. 1400 et seq.; and Maintenance and Control of Student Records in Bureau Schools, 25 CFR part 43.

PURPOSE(S) OF THE SYSTEM:

The primary purposes of the system are to provide immediate behavioral health crisis support, clinical counseling services and crisis care coordination, and to facilitate communication between the client and appropriate points of contact for referrals and continued service delivery or emergency care.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include current and former BIE employees, contractors, students, parents, guardians or caretakers of students, and staff at BIE-operated K-12 schools, BIE-operated post-secondary institutions, tribally-controlled schools operated pursuant to a grant under the Tribally Controlled Schools Act of 1988 or a contract under the Indian Self-Determination and Education Assistance Act, and tribal colleges and universities. These individuals are collectively referred to as clients for purposes of this program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the system include information collected on forms

from BHWP clients as follows:

(1) Student Information. Name, date of birth, mailing address, physical address, home and cell phone number, email address, parent, guardian, or caretaker information, emergency contact information, school of enrollment, grade level, tribe of enrollment and disability information such as a client's Individualized Education Plan (IEP) or 504 Plan. Information about clinical services provided by the service provider may be maintained in the student's records and may be viewed by the Student Health Program Specialist, as authorized and necessary to facilitate behavioral health, counseling or crisis care coordination or referrals for this program.

(2) Parent, Guardian, or Caretaker Information. Name, relationship to student, mailing address, email address, physical address, home and/or cell phone number, and tribe of enrollment.

(3) BIE Staff/Employee Information. Name, date of birth, mailing address, physical address, home and/or cell phone number, email address, school affiliation, tribe of enrollment, and emergency contact information.

(4) School Level Staff and Employee Information. Name, date of birth, mailing address, physical address, home and/or cell phone number, email address, school affiliation, tribe of enrollment, and emergency contact information.

(5) Tribal Staff and Employee Information. Name, date of birth, mailing address, physical address, home and/phone number, email address, school affiliation, tribe of enrollment, and emergency contact information.

(6) Emergency Contact Person. Contact name, relationship to client, and emergency contact phone, cell phone number, and email address.

(7) In the case of a critical incident, sentinel event, death, or crisis incident, the PII may also include client name, age, date of birth, address, parent, guardian, or caretaker information if applicable, emergency contact information, manner of death or

incident type, location of death or incident, date and time of death or incident, any known witness or collateral contact, and their contact information at time of client death or client related incident. This information may be shared with appropriate local, tribal, city, county, state, or Federal law enforcement officials and first responders for immediate emergency response engagement, medical centers for emergency medical care, and social services or other agencies in the event of abuse or neglect. This information may be shared with appropriate BIE and BHWP officials and administrators as needed, as well as tribal officials for appropriate critical incident or sentinel event reporting.

RECORD SOURCE CATEGORIES:

Information comes primarily from BHWP Care Coordinators and BHWP licensed providers from the school point of contact at time of client referral, directly from the client, and the client's parent, guardian, emergency contact or caretaker when necessary.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOI as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

- (1) DOI or any component of DOI;
- (2) Any other Federal agency appearing before the Office of Hearings and Appeals;
- (3) Any DOI employee or former employee acting in his or her official capacity;
- (4) Any DOI employee or former employee acting in his or her individual

capacity when DOI or DOJ has agreed to represent that employee or pay for private representation of the employee; or

(5) The United States Government or any agency thereof, when DOJ determines that DOI is likely to be affected by the proceeding.

B. To a congressional office when requesting information on behalf of, and at the request of, the individual who is the subject of the record.

C. To the Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf, or for a purpose compatible with the reason for which the records are collected or maintained.

D. To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, Tribal, or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law – criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

E. To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

F. To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant, or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

G. To representatives of the National Archives and Records Administration (NARA) to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

H. To state, territorial, and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

I. To an expert, consultant, grantee, shared service provider, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

J. To appropriate agencies, entities, and persons when:

(1) DOI suspects or has confirmed that there has been a breach of the system of records;

(2) DOI has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOI (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOI's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

K. To another Federal agency or Federal entity, when DOI determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(1) responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

L. To the Office of Management and Budget (OMB) during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A-

19.

M. To the Department of the Treasury to recover debts owed to the United States.

N. To the news media and the public, with the approval of the Public Affairs Officer in consultation with counsel and the Senior Agency Official for Privacy, where there exists a legitimate public interest in the disclosure of the information, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

O. To a parent or guardian, medical facility, service provider, BIE-funded school official, or appropriate parties to provide immediate behavioral health crisis support, clinical counseling services and crisis care coordination, and to facilitate communication between the client and appropriate points of contact for referrals and continued service delivery or emergency care pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 et seq.; Maintenance and Control of Student Records in Bureau Schools, 25 CFR part 43; Confidentiality of Substance Use Disorder Patient Records, 42 CFR part 2; and other applicable laws and regulations.

P. To Federal, tribal, state, local, or private agencies for referral to continue providing services, to report, investigate, and treat any incidents of suspected abuse or neglect pursuant to the Indian Child Protection and Family Violence Prevention Act, Pub. L. 101-630, or in the event of any critical incident as required by 25 CFR part 43, other applicable laws, and BHWP policy and procedures.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records are contained in file folders stored within filing cabinets in secured rooms. Electronic records are stored on electronic media at a Federal Risk and Authorization Management Program (FedRAMP) approved cloud service provider.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information from the BHWP is retrievable by client name, age, gender, school

affiliation, address, call type, and client identified record number by authorized users of the system. Additionally, de-identified aggregate data, such as diagnosis codes, numbers of encounters, and types of encounters, and general demographics may be retrieved.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records retention schedules for the BHWP are being developed and will be submitted to NARA for scheduling and approval. These records will be treated as permanent until the records are scheduled and have been approved by NARA. Upon termination of the BHWP service contract with the Contracting Agency, the contractor will transfer all electronic health record information to the BIE for appropriate record keeping and storage in alignment with all Federal requirements.

BHWP system usage records are covered by the Departmental Records Schedule 1.4A, Short Term Information Technology Records, System Maintenance and Use Records (DAA-0048-2013-0001-0013), which was approved by NARA. These records include system operations reports, login and password files, audit trail records and backup files. The disposition is temporary. Records are cut-off when superseded or obsolete and destroyed no later than three years after cut-off. Records associated with a 42 CFR part 2 program that is discontinued or is taken over or acquired by another program will be processed in accordance with 42 CFR 2.16, Security for records, and 2.19, Disposition of records by discontinued programs.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records in the system is limited to authorized personnel who have a need to access the records in the performance of their official duties, and each user's access is restricted to only the functions and data necessary to perform that person's job responsibilities. System administrators and authorized users are trained and required to

follow established internal security protocols and must complete all security, privacy, and records management training and sign the DOI Rules of Behavior.

The records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security and privacy rules and policies. Paper records are maintained in locked file cabinets and/or safes under the control of authorized personnel during normal hours of operation. Computer servers on which electronic records are stored are located at a FedRAMP-approved cloud service provider with physical, technical, and administrative levels of security to prevent unauthorized access to the system and information assets. The cloud service provider implements protections, controls and access restrictions as required to maintain the necessary FedRAMP certification and to mitigate the privacy risks. Authorized DOI and contractor personnel must complete mandatory security, privacy, records management, and HIPAA training specific to their roles to ensure they are knowledgeable about how to protect personally identifiable information before they are granted access to the system of records.

Computerized records systems follow the National Institute of Standards and Technology privacy and security standards as developed to comply with the Privacy Act of 1974, as amended, 5 U.S.C. 552a; Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.; the Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551 et seq.; and the Federal Information Processing Standards 199: Standards for Security Categorization of Federal Information and Information Systems. Security controls include user identification, multi-factor authentication, database permissions, encryption, firewalls, audit logs, and network system security monitoring, and software controls which establish access levels according to the type of user. Access to records in the system is limited to authorized personnel who have a need to access the records in the performance of their official duties, and each user's access is restricted to only the functions and data necessary to perform that person's job responsibilities. Audit trails are

maintained and reviewed periodically to identify unauthorized access or use. A Privacy Impact Assessment was conducted on the Behavioral Health and Wellness Program System to ensure that Privacy Act requirements are met, and appropriate privacy controls were implemented to safeguard the personally identifiable information contained in the system.

RECORD ACCESS PROCEDURES:

An individual requesting access to their records should send a written inquiry to the applicable System Manager identified above. DOI forms and instructions for submitting a Privacy Act request may be obtained from the DOI Privacy Act Requests website at <https://www.doi.gov/privacy/privacy-act-requests>. The request must include a general description of the records sought and the requester's full name, current address, and sufficient identifying information such as date of birth or other information required for verification of the requester's identity. The request must be signed and dated and be either notarized or submitted under penalty of perjury in accordance with 28 U.S.C. 1746. Requests submitted by mail must be clearly marked "PRIVACY ACT REQUEST FOR ACCESS" on both the envelope and letter. A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of their records should send a written request to the applicable System Manager as identified above. DOI instructions for submitting a request for amendment of records are available on the DOI Privacy Act Requests website at <https://www.doi.gov/privacy/privacy-act-requests>. The request must clearly identify the records for which amendment is being sought, the reasons for requesting the amendment, and the proposed amendment to the record. The request must include the requester's full name, current address, and sufficient identifying information such as date of birth or other information required for verification of the requester's

identity. The request must be signed and dated and be either notarized or submitted under penalty of perjury in accordance with 28 U.S.C. 1746. Requests submitted by mail must be clearly marked “PRIVACY ACT REQUEST FOR AMENDMENT” on both the envelope and letter. A request for amendment must meet the requirements of 43 CFR 2.246.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records about them should send a written inquiry to the applicable System Manager as identified above. DOI instructions for submitting a request for notification are available on the DOI Privacy Act Requests website at <https://www.doi.gov/privacy/privacy-act-requests>. The request must include a general description of the records and the requester’s full name, current address, and sufficient identifying information such as date of birth or other information required for verification of the requester’s identity. The request must be signed and dated and be either notarized or submitted under penalty of perjury in accordance with 28 U.S.C. 1746. Requests submitted by mail must be clearly marked “PRIVACY ACT INQUIRY” on both the envelope and letter. A request for notification must meet the requirements of 43 CFR 2.235.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Signed:

Teri Barnett,
Departmental Privacy Officer,
Department of the Interior.